4.—*Cumulative Sentences.*

The subject of cumulative terms of imprisonment when the accused is convicted of several offences, has been to some extent illustrated under the head of "Charges," but where several punishments are legally imposed, one to begin when the other ends, the Magistrate is not held to exceed his powers, or the case to require trial by a higher Court, because of the several sentences. But there is a limit to cumulative sentences, and for this and other details section 354 must be referred to. For special cases of sentence, where the person has been convicted previously, see section 348, and section 75, I. P. C.

5.—*Reformatory.*

Youthful prisoners (under 16 years of age) may be sent to a Reformatory instead of to prison. (Section 399.)

6.—*Remission of Punishment.*

The power to remit punishments is reserved to the Local Government or the Governor-General in Council. (Section 401.)

Section IX.—Appeal, Revision, &c.

1.—*To whom Appeal lies.*

An appeal lies to the District Magistrate from *any conviction* by a Magistrate of the second or third class, or (under section 349) by a third-class Magistrate where sentence is given by a Sub-divisional Magistrate of the second class. (Section 407.) The District Magistrate may make over the appeal to any first-class Magistrate empowered to hear appeals.

The appeal from the Magistrate of the district, or Magistrate of first class, lies to the Court of Session.

If the District Magistrate had powers under section 30, and it appears from the proceedings that he held the trial under those provisions, the appeal is to the High Court, *not* to Sessions. I do not speak of appeals from Sessions: they are to the High Court, but there is no need for the forest officer to go into this.

Except (in Sessions trials with jury) the appeal is either on points of fact or *law*. (Section 418.)

Petitions of appeal must be accompanied by a copy of the judgment. (Section 419.) No "Court fee" (judicial stamp) is required for an appeal in criminal cases.

§ 2.—*Cases where there is no Appeal.*

There is no appeal from an order of acquittal unless the Local Government direct it under section 417.

There is no appeal in any case where—

A Court of Session,

A District Magistrate, or

A Magistrate of the first class

has passed a sentence of imprisonment not exceeding one month only, or of fine not exceeding Rs. 50 only, or of whipping only; nor from a sentence of imprisonment in *default* of fine where no substantive sentence of imprisonment is passed; nor from a judgment convicting a person on his own plea, *except as to the legality or extent of the sentence* (which is, of course, a matter with which the prisoner's plea had nothing to do, as a matter of admission.) (Section 412.)

There is no appeal in cases tried *summarily* in which the sentence does not exceed three months' imprisonment only, or fine not exceeding Rs. 200 only, or of whipping only[6]. (Section 414.) But in this case and the last, a *combination* of punishments gives right to an appeal.

All[1] convictions by second and third-class Magistrates are appealable.

All convictions of an European British subject by a Magistrate or the Court of Session (anything in the above section notwithstanding) are appealable: cases before the Magistrate to the Sessions, and Sessions cases to the High Court. (Section 416.)

If a prisoner in jail appeals, see section 420 for procedure.

Except in cases of certain Benches of Magistrates which I have not explained to the forest officer, as not likely to come within his range of practice.

Except in these and other[7] cases where an appeal is expressly *allowed* by the Code or some other law, there is no appeal from any judgment, sentence, or order of a Criminal Court. (Section 404.)

Thus in a matter of *compensation* out of proceeds of fine, there is no appeal. It will be observed above that the appeals allowed are from Magistrate's *convictions*, and that an especial rule is made about *acquittals:* consequently, there is no appeal from an order *discharging*, or *dismissing a complaint:* and generally the clear rule is, you must point to the *express* provision for an appeal or there is none under the Code. Confiscation proceedings, where the property only can be dealt with, the offender not appearing under the Forest Act, are specially made appealable by section 58 of the Forest Act.

There is no *second* appeal (*i.e.*, appeal from an appellate order) in any criminal cases except in cases where the Local Government appeals from an acquittal. (Section 417.) But an appellate order may be *revised* by a High Court under section 439.

3.—*Procedure on Appeal.*

The procedure on appeal is learned from section 422 *et seq.*, which may be referred to.

The appeal may be rejected on the petition only without sending for the record.

I would call forest officers' attention to section 422. The Appellate Court, if it decide to hear the appeal, gives notice to the appellant and to some one appointed by the Local Government on behalf of the prosecution. It is probable that further rules will be issued about this. Under the Code of 1872 the notice went to the District Magistrate. Whoever receives the notice, he should be asked to let the forest officer know in all

[7] I have not spoken of the "other cases" but only of appeals from Magistrates and other convictions and acquittals on *trial*, because these are the only cases a forest officer is likely to want to know about. But there may be other matters, such as order to find security for good conduct, to maintain a wife or child and so, to put a name on the jury list. If there is an appeal, an express provision will be found.

forest cases, as in the present stage of *growth* of the department with so many legal questions on which final judicial decision is valuable, it is important that when forest cases are on appeal before a Court whose rulings are *published* or used as *precedents*, the forest jurisprudence of the question should be adequately represented.

An Appellate Court is competent to alter or reverse a sentence and order, or to order a retrial, but it cannot enhance a punishment. (Section 423.)

Pending an appeal, the sentence may be suspended, and if the offence is bailable an offender may be released on bail. (Section 426.)

4.—*Irregularities in Procedure.*

Chapter XLV is important. No finding or sentence of a *competent* Court can be reversed or altered by reason of an error or defect, in the charge in the proceedings before or on trial, on account of improper admission or rejection of evidence, unless the error has occasioned a failure of justice. Thus it will be observed that primary technical matters and errors of form, not affecting the *justice of the case*, are not matters on which an appeal will be successful.

§ 5.—*Revision.*

The High Court, the Court of Session, and the District or specially empowered Sub-divisional Magistrate, may call for the record of any case in any subordinate Court for the purpose of satisfying itself of the—

(*a*) Legality or propriety of any finding, sentence, or order,

(*b*) Regularity of proceedings. (Section 435.)

As the result of the revision of the record—

(1) The Court of Sessions or Magistrate of the District may order a person improperly discharged in a case exclusively triable by Sessions Court, to be arrested and committed for trial (section 436)